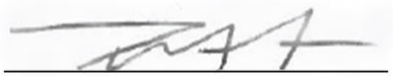


POLICY TITLE: RESTITUTION POLICY NUMBER: 9.6 (JCC) CHAPTER 9: CASE MANAGEMENT		PAGE <u>1</u> OF <u>7</u>
 STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 		PROFESSIONAL STANDARDS: See Section VIII
EFFECTIVE DATE: March 6, 2018	LATEST REVISION: August 5, 2026	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. §1403.

II. APPLICABILITY

Juvenile Community Corrections

III. POLICY

It is the policy of the Department of Corrections to enforce the collection of restitution from juveniles who are under supervision in the community on informal adjustment, probation, or community reintegration.

IV. DEFINITIONS

1. Collateral source – for purposes of this policy, a source of monetary reimbursement, in whole or in part, for economic loss resulting from a juvenile crime, which the victim has received, or which is readily available to the victim from a government agency (including the Victims' Compensation Fund, Title 5, chapter 316-A and the Victims' Property Compensation Fund Title 5, chapter 316-C); Social Security, Medicare, or MaineCare; Workers' Compensation or an employer wage continuation program; private insurance; or private disability benefits.
2. Joint and several – for purposes of this policy, a form of restitution whereby multiple persons are responsible both together (jointly) and individually (severally) to compensate the victim for the full amount of restitution regardless of their individual percentage of fault.
3. Restitution – for purposes of this policy, monetary reimbursement, in whole or in part, for economic loss made by a juvenile to the victim of the juvenile crime, either directly or indirectly.
4. Victim – for purposes of this policy, a natural person or a dependent of a deceased person or a person legally authorized to act on behalf of the victim or the estate of the victim.

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Procedure A:	Restitution, General
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VI. ATTACHMENTS

Attachment A:	Juvenile Restitution Set-Up
Attachment B:	Notice to Facility Resident or Community Corrections Client of Victim Restitution Owed
Attachment C:	Notice to Prosecutor of Victim Restitution Owed

VII. PROCEDURES

Procedure A: Restitution, General

1. All restitution must follow the requirements of 15 M.R.S.A. §3314-C and, therefore, restitution:
 - a. must be made payable only to a victim as defined in this policy;
 - b. cannot be required to be paid on a joint and several basis;
 - c. can only be required with the victim's consent;
 - d. cannot be given to a victim who is an accomplice; and
 - e. if the victim has received or will receive compensation from a collateral source, it can only be in excess of what the collateral source has paid or will pay.
2. Whenever a Juvenile Community Corrections Officer (JCCO) is required to set a payment schedule for restitution, whether for an informal adjustment agreement, a probation for which a court has not set the payment schedule, or community reintegration, the JCCO shall determine the periodic payment amount based upon the juvenile's ability to pay.
3. In determining the periodic payment amount, the JCCO shall consider the age of the juvenile, unusual expenses, if any, income, if any, and earning potential. The juvenile may be required to verify their income through written documentation. Examples of acceptable income documentation include a recent pay stub, work invoices, or the previous year's income tax return. The juvenile shall be responsible for providing documentation of any unusual expenses, e.g., extraordinary medical expenses, special family needs, etc.
4. The JCCO shall inform the juvenile and the juvenile's parent(s)/guardian/legal custodian, if applicable, that the juvenile is responsible for immediately notifying the JCCO of any change in financial circumstances, including any change in income or any additional major expenses.

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5. The Juvenile Community Corrections Officer (JCCO) may request, but shall not demand, an additional lump sum payment from any juvenile who has an unpaid restitution obligation and who has acquired assets outside of normal income, such as inheritance, lottery winnings, or above average equity in property.
6. For a juvenile receiving an indeterminate commitment to or a specified period of confinement in a juvenile correctional facility with a restitution condition, the JCCO shall complete the Juvenile Restitution Set-Up (Attachment A) within ten (10) days of when the court order is received.
7. Once a Juvenile Restitution Set-Up is completed by a JCCO, the information on the form shall be entered into the Department's resident and client records management system by designated juvenile community corrections region clerical staff.
8. The JCCO or clerical staff shall provide the Restitution and Fee Collection Detail form (from the Department's resident and client records management system) to the juvenile and the parent(s)/guardian/legal custodian, if applicable.

Procedure B: Informal Adjustment

1. For an informal adjustment, the JCCO shall ask the victim if they consent to receiving restitution. If the victim does not consent, restitution shall not be part of the informal adjustment agreement.
2. If the victim consents to receiving restitution, the JCCO shall also ask the victim if they have received or will receive a payment from a collateral source, and if so, the amount. The JCCO shall, if necessary, inform the victim of the availability of compensation from the Victims' Compensation Fund, Title 5, chapter 316-A and the Victims' Property Compensation Fund Title 5, chapter 316-C. The JCCO may request written documentation of payment or expected payment.
3. In determining the total amount to be paid as restitution as part of an informal adjustment agreement, the JCCO shall review the referring law enforcement officer's report and may request the victim to provide documentation of economic loss.
4. If the victim disputes the amount of restitution owed by the juvenile, the JCCO may refer the victim to the prosecuting attorney to try to reconcile the amount owed. The JCCO may also discuss the situation with the prosecuting attorney for the purpose of determining whether to go ahead with the informal adjustment.
5. For a juvenile agreeing to an informal adjustment that includes victim restitution, the JCCO shall ensure at the time of the agreement that the juvenile and the juvenile's parent(s)/guardian/legal custodian, if applicable, are aware of the victim restitution obligations agreed to and that the juvenile has the ability to meet the obligations within the period of informal adjustment.
6. The JCCO shall complete the Juvenile Restitution Set-Up (Attachment A) within ten (10) days of the agreement, to include the periodic payment schedule determined by the JCCO.
7. The payment schedule shall not exceed the period of informal adjustment.

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8. If the juvenile indicates an inability to comply with the required payment schedule due to a documented change in income or expenses, the Juvenile Community Corrections Officer (JCCO) shall determine whether the payment schedule should be modified as a result of the change in income or expenses if the time remaining on the informal adjustment permits. If the time remaining does not permit a modification, the JCCO shall notify the victim and take any other appropriate action.
9. If a juvenile on informal adjustment fails to make a scheduled restitution payment, the JCCO shall determine the circumstances of the failure to pay. If the failure to pay is excusable, the JCCO shall modify the payment schedule if the time remaining on the informal adjustment permits. If the time remaining does not permit a modification, the JCCO shall notify the victim and take any other appropriate action.
10. If the failure to pay is inexcusable, the JCCO shall notify the victim and decide whether to terminate the informal adjustment as unsuccessful by authorizing a petition to the court or take another appropriate action. A failure to pay shall be considered inexcusable if the juvenile has not asked for and received a modification in the payment schedule based on a documented change in income or expenses.
11. Under no circumstances may any restitution payments be sought by the JCCO after the juvenile has completed informal adjustment.

Procedure C: Supervised Conditional Release

1. If a court orders that a juvenile pay restitution as a condition of supervised conditional release, which is not included as part of a deferred disposition, the JCCO shall notify the Regional Correctional Administrator (RCA), or designee, who shall notify the Associate Commissioner for Juvenile Services. The Associate Commissioner shall take appropriate action to have the order vacated.
2. For a juvenile placed on deferred disposition with conditional release supervised by a JCCO, the JCCO shall ensure, as soon as possible, that the juvenile and the juvenile's parent(s)/guardian/legal custodian, if applicable, are aware of any applicable victim restitution obligations as ordered by the court and are aware that payments must be made to the prosecutor's office.
3. Juvenile community corrections staff shall not complete the Juvenile Restitution Set-Up or take any other steps to collect or enforce the collection of restitution for a juvenile on supervised conditional release, regardless of whether it is with or without deferred disposition.

Procedure D: Probation

1. For a juvenile placed on probation with a restitution condition, per 17-A M.R.S.A. §2006, as made applicable to juveniles by 15 M.R.S.A. §3314-C(8), the restitution must be ordered paid through the Department of Corrections. If a court orders the restitution to be paid in some other way, the JCCO shall notify the RCA, or designee. The RCA, or designee, shall take appropriate steps to have the order amended.
2. For a juvenile placed on probation, the Juvenile Community Corrections Officer (JCCO) shall ensure that the juvenile, and the juvenile's parent(s)/guardian/legal

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custodian, if applicable, are aware of any applicable victim restitution obligations as ordered by the court.

3. If the court has specified a schedule for the payment of restitution, the Juvenile Community Corrections Officer (JCCO) shall inform the juvenile and the juvenile's parent(s)/guardian/legal custodian, if applicable, that the juvenile must make the payments to the Department in accordance with the schedule set by the court.
4. If the court has not specified a schedule for the payment of restitution, the JCCO shall determine the periodic payment schedule. If feasible, the payment schedule shall not exceed the period of probation.
5. For a juvenile placed on probation with a restitution condition, the JCCO shall complete the Juvenile Restitution Set-Up (Attachment A) within ten (10) days of when the court order is received.
6. If the juvenile indicates an inability to comply with the required payment schedule due to a documented change in income or expenses and the payment schedule was set by a JCCO, the JCCO shall determine whether the payment schedule set by the JCCO should be modified as a result of the change in income or expenses.
7. If the juvenile indicates an inability to comply with the required payment schedule due to a documented change in income or expenses and the payment schedule was set by the court, the JCCO may inform the juvenile, and the juvenile's parent(s)/guardian/legal custodian, if applicable, of the juvenile's option to request a modification of restitution in accordance with 15 M.R.S.A. §3314-C (6).
8. If a juvenile on probation has failed to make scheduled restitution payments for sixty (60) days or more and the failure to pay is inexcusable, the JCCO shall, with the approval of the prosecuting attorney, file a motion to revoke probation. The failure to pay shall be considered inexcusable if the juvenile has not requested and received a modification to the payment schedule based on a documented change in income or expenses. If the prosecuting attorney has not given approval for a motion to revoke, the JCCO shall ensure that the designated juvenile community corrections region clerical staff take the below steps.
9. For a juvenile on probation who is in compliance with the restitution payment schedule or whose failure to comply is excusable, but who will not have paid the total amount ordered by the court by the completion of probation, the JCCO shall not move to revoke probation. Instead, the JCCO shall ensure that designated juvenile community corrections region clerical staff take the below steps.
10. Thirty (30) days prior to the end of probation, designated juvenile community corrections region clerical staff shall provide the juvenile with the Notice to Facility Resident or Community Corrections Client of Victim Restitution Owed (Attachment B) and a copy of the Client Restitution Report (from the Department's resident and client records management system).
11. Thirty (30) days prior to the end of probation, designated juvenile community corrections region clerical staff shall provide the prosecutor's office with the Notice to Prosecutor of Victim Restitution Owed (Attachment C), and a copy of the Client Restitution Report and

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a copy of the Restitution Case Summary (from the Department's resident and client records management system).

12. Under no circumstances may the payment schedule be changed by the Juvenile Community Corrections Officer (JCCO) after the juvenile has completed probation, nor may any restitution payments be sought by the JCCO after the juvenile has completed probation.

Procedure E: Community Reintegration

1. For a juvenile placed on community reintegration, the JCCO shall review the Juvenile Restitution Set-Up (Attachment A) and the juvenile's payment history and determine whether any restitution remains unpaid and, if so, in what amount.
2. The JCCO shall ensure that it is added as a condition of community reintegration that the juvenile pay any restitution not yet paid by the juvenile in accordance with the payment schedule set by the JCCO and that the juvenile and the juvenile's parent(s)/guardian/legal custodian, if applicable, are aware of the victim restitution obligations agreed to.
3. If a juvenile on community reintegration fails to make a scheduled payment and the failure to pay is inexcusable, the JCCO shall impose graduated sanctions, up to and including requesting a return to the facility.
4. If the graduated sanctions are not effective and the juvenile is not returned to the facility, the JCCO shall ensure that designated juvenile community corrections region clerical staff take the below steps.
5. For a juvenile on community reintegration who is in compliance with the restitution payment schedule or whose failure to comply is excusable, but who will not have paid the total amount ordered by the court by the completion of community reintegration, the JCCO shall not impose any sanctions. Instead, the JCCO shall ensure that designated juvenile community corrections region clerical staff take the below steps.
6. Thirty (30) days prior to the end of community reintegration, designated juvenile community corrections region clerical staff shall provide the juvenile with the Notice to Facility Resident or Community Corrections Client of Victim Restitution Owed (Attachment B) and a copy of the Client Restitution Report (from the Department's resident and client records management system).
7. Thirty (30) days prior to the end of community reintegration, designated juvenile community corrections region clerical staff shall provide the prosecutor's office with the Notice to Prosecutor of Victim Restitution Owed (Attachment C), and a copy of the Client Restitution Report and a copy of the Restitution Case Summary (from the Department's resident and client records management system).
8. Under no circumstances may the payment schedule be changed by the JCCO after the juvenile has completed community reintegration, nor may any restitution payments be sought by the JCCO after the juvenile has completed community reintegration.

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Procedure F: Method of Payment

1. The juvenile shall pay with a cashier's check or certified check from a bank or credit union, U.S. Postal Service money order, or credit card or debit card. Under no circumstances may a restitution payment be made by personal check or in cash.
2. Juveniles shall mail or otherwise have directly delivered to Central Office payments made by cashier's check, certified check, or postal money order. A juvenile who brings a cashier's or certified bank check or postal money order to a juvenile community corrections office may be provided with a stamped envelope to facilitate the juvenile mailing it to Central Office. Payment may also be made online by credit or debit card.

Procedure G: Collection and Disbursement of Funds

1. Restitution payments shall be disbursed to victims as required by an informal adjustment agreement or court order and in accordance with practices established by the Department's Director of Victim Services.
2. If only one juvenile is required to pay restitution, then when funds equal to the amount of restitution agreed to or ordered by the court have been collected, the collection of funds shall then terminate.
3. If more than one person is required to pay restitution and the share of the restitution payable by each of them has been specified, then when funds equal to the amount of restitution agreed to or ordered by the court have been collected from a juvenile, the collection of funds from that juvenile shall then terminate.
4. If more than one person is required to pay restitution and a court order is made joint and several the Juvenile Community Corrections Officer (JCCO) shall inform the prosecuting attorney that a joint and several order is not allowed for juvenile restitution under 15 M.R.S.A. §3314-C (3)(B)(4). The JCCO shall notify the Regional Correctional Administrator (RCA), or designee. The RCA, or designee, shall take the appropriate steps to have the order amended.

Procedure H: Juveniles Transferred to Maine from Out of State

1. A juvenile who is in Maine under the terms of the Interstate Compact for Juveniles shall be instructed to send their restitution payments directly to the sending jurisdiction.

VIII. PROFESSIONAL STANDARDS

None

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